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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/253,793 02/22/99 ROBISON

J 4164-P

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QM02/0213

EXAMINER

KEASEL, E

ART UNIT

PAPER NUMBER

3754

DATE MAILED:

02/13/01

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.  
**09/253,793**

Applicant(s)

**Robison et al.**

Examiner

**Eric Keasel**

Group Art Unit

**3754**



☒ Responsive to communication(s) filed on Jan 19, 2001

☒ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claims

☒ Claim(s) 13 and 15-20 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☒ Claim(s) 13 and 15-20 is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been

☐ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

☐ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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## **DETAILED ACTION**

### ***Continued Prosecution Application***

1. The request filed on 19 Jan 2001 for a Continued Prosecution Application (CPA) under 37 CFR 1.53(d) based on parent Application No. 09/253,793 is acceptable and a CPA has been established. An action on the CPA follows.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 16 and 19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 16 and 19 are dependent on canceled claim 14.

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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5. Claims 13 and 15-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Maier et al. in view of Szymaszek et al.

Maier et al. disclose a ceramic valve plug head (2), a valve plug stem (3), and a plug head band (4). The preferred materials for the band include aluminum titanate (an aluminum alloy). The band is in contact with the head and the stem.

The band of Maier et al. has a first side (engaging the head) greater in height than a second side (its top or bottom). However, applicant may intend that the second side be the side opposite the first side. Maier et al. do not show this. It would have been an obvious matter of design choice to have made the first side greater in height than the second (opposite) side, since applicant has not disclosed that doing so solves any stated problem or is for any particular purpose and it appears that the invention would perform equally well with the ratio of the heights of the sides in any proportion as long as the friction fit between the retainer and the plug is great enough so that the retainer does not slip. In fact, Maier et al. use this friction as their means for fastening.

Maier et al. do not disclose means for fastening as a plurality of nuts and bolts or pins. Szymaszek et al. disclose a similar valve plug head (30), valve plug stem (20), and valve head plug retainer (42). Szymaszek et al. use a plurality a bolts threaded through the retainer and into the plug (obviating the need for nuts). The bolts are considered an equivalent of the pins. It would have been obvious to one having ordinary skill in the art at the time the invention was

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made to have used the means for fastening of Szymaszek et al. in the invention of Maier et al. in order to secure the head, stem, and retainer as taught by Szymaszek et al.

***Response to Arguments***

6. Applicant's arguments filed 19 January 2001 have been fully considered but they are not persuasive.

Brittle and ductile are not absolute terms where a material is either brittle or ductile with no middle ground. Although some materials listed as acceptable materials for the band (see claim 19, lines 3-7) are more brittle than some materials listed as acceptable for the head (see claim 18, lines 3 and 4), attempting to exclude certain materials from being acceptable for the band (even though the material fits the definition of applicant at the time of filing) is not a persuasive argument. Aluminum titanate is an aluminum alloy (and also a titanium alloy) by any definition of alloy. Although it appears that applicant may not have intended certain aluminum alloys and titanium alloys for the material of choice of the band, this is what was disclosed at the time of filing.

***Conclusion***

7. All claims are drawn to the same invention claimed in the parent application prior to the filing of this Continued Prosecution Application under 37 CFR 1.53(d) and could have been finally rejected on the grounds and art of record in the next Office action. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action after the filing under 37

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CFR 1.53(d). Applicant is reminded of the extension of time policy as set forth in 37

CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.


8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eric Keasel whose telephone number is (703) 308-6260.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Shaver, can be reached on (703) 308-2582. The fax phone number for the organization where this application or proceeding is assigned is (703) 308-7766.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0861.

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February 9, 2001

  
KEVIN SHAVER  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3700  
2/12/01